

VZCZCXRO8794
OO RUEHDBU RUEHIK RUEHPOD RUEHPW RUEHYG
DE RUEHBUL #0918/01 1040322
ZNR UUUUU ZZH
O 140322Z APR 09
FM AMEMBASSY KABUL
TO RUEHC/SECSTATE WASHDC IMMEDIATE 8365
INFO RUCNAFG/AFGHANISTAN COLLECTIVE
RUEHZG/NATO EU COLLECTIVE
RUEHGV/USMISSION GENEVA 6749

UNCLAS SECTION 01 OF 02 KABUL 000918

DEPT FOR SRAP, SCA/FO, SCA/RA, SCA/A, AND L
DEPT PASS AID/ANE
CENTCOM FOR CSTC-A
GENEVA FOR PSA

SENSITIVE

SIPDIS

E.O. 12958 N/A

TAGS: [PGOV](#) [ASEC](#) [EIND](#) [EAID](#) [AF](#)

SUBJECT: Afghan Parliament Takes up Regulation of Private Security Companies

REF: (a) Kabul 00463 (b) Kabul 00106

11. (SBU) Summary: The Afghan Parliament has begun consideration of legislation to regulate private security companies (PSCs). This parliamentary action comes two months after a Cabinet decision imposing interim rules on PSC operations and, if enacted, would supersede them. The legislation is similar to the Cabinet rules, including a problematic personnel cap and exorbitant and discriminatory fee structure. PSCs are unpopular in Afghanistan for a variety of reasons, ranging from resentment of "foreign mercenaries" to concern that such firms could constitute private armies and threaten the regime. As mark-up proceeds, there is a risk that the bill could become more restrictive of PSC operations, which would make it complicated for the USG to contract the necessary PSC protection for operations and facilities in Afghanistan. Embassy Kabul is engaging Afghan leadership to influence both the regulatory and legislative processes. The Minister of the Interior, who leads the process for the Afghan government, has expressed willingness to seek compromises on the most problematic aspects of PSC rules. Parliament is more of a wild card, however, and could prove more difficult to engage. We will attempt to engage the powerful and respected Interior Minister Atmar and work through him as the best vehicle for influencing Parliament. End Summary.

PARLIAMENT TAKES UP BILL ON PRIVATE SECURITY COMPANIES; PERSONNEL CAP AND FEES PROBLEMATIC

12. (SBU) The Internal Security Committee of the Wolesi Jirga (the lower house of Parliament) has begun mark-up on a bill to regulate private security companies (PSCs) in Afghanistan. This parliamentary action comes two months after the Cabinet imposed its own regulations on the industry (ref a). The bill, originally introduced last year by the Ministry of the Interior (MoI), had been lying inactive for several months, prompting the Cabinet to promulgate its own rules as an interim measure. (Note: The impetus for parliamentary consideration after months of inaction could have come from the visit last week of the UN Working Group on Mercenaries. The group was here on a fact-finding mission in preparation for a report to the UN Human Rights Council in the fall.)

13. (SBU) The bill's provisions are similar to those issued by the Cabinet, including procedures on PSC vetting, registration and oversight; the scope of PSC organization and operation; and fees. The original version contained the same cap of 500 "men under arms" per PSC as the regulations. (The MoI, the government lead on the issue, is the author of both.) However, the Internal Security Committee has reportedly amended the bill to lower the cap to 100-300 men. The committee has also made the fee structure more discriminatory: it has doubled the annual licensing fee for

non-Afghan PSCs from USD 120,000, as contained in both the regulations and the original draft legislation, to USD 240,000. The fee for Afghan companies remains USD 60,000.

¶4. (SBU) Most PSCs in Afghanistan are foreign. While there are Afghan PSCs, most are generally smaller and less well-trained; many of them are not registered. Afghans tend to see PSCs as foreign mercenaries, unaccountable and dangerous. For a politician, limiting the numbers of armed personnel for PSCs and spiking the fees for foreign companies is easy and politically expedient. Some Afghan politicians also have connections to local PSCs and may want to give them an edge over the foreign competition.

PARLIAMENTARY ENTRY COMPLICATES THE ISSUE; EMBASSY CONTINUING TO WORK FOR A PSC CODE WE CAN LIVE WITH

¶5. (SBU) The sudden entry of Parliament into the PSC regulatory game could complicate USG efforts to secure a rational operational environment for PSCs, which remains essential to the U.S. mission in Afghanistan. It is unclear at this point whether parliamentary interest in this bill will remain high and how quickly the bill will proceed through both houses. Parliamentary action is often scheduled with no advance notice, and further attempts to limit PSC operations and raise their costs of doing business are possible. The Embassy will try to engage directly with key Members of Parliament and will work with Minister Atmar to shape a bill favorable to our interests. Atmar is widely respected in Parliament and his views will have great sway.

¶6. (SBU) The Embassy has been working closely with the MoI to secure "flexibilities," as per Interior Minister Atmar, on the 500-man limit of personnel under arms. Minister Atmar conceded that the

KABUL 00000918 002 OF 002

limitation is not workable and has committed to finding a mechanism for exceptions for the operations of the USG and other donors providing key support for Afghan reconstruction (Ref B). The MoI has thus accepted the principle that the USG/military needs to continue contracting with PSCs with more than 500 armed staff, but we have yet to agree on the details of an exemption process. The Embassy has also underscored - and MoI officials have agreed -- that any exemptions from the cap must also apply to other international donors and coalition partners, whose assistance programs are a vital component of reconstruction efforts. MoI has committed to equalizing the fees as between foreign and Afghan PSCs; we continue to press for fees that are reasonable, linked to the provision of actual services, and consistent with bilateral agreements. We have also stressed GIROA responsibility to ensure that any law passed by Parliament is consistent with the arrangement eventually worked out with the U.S. Embassy.

RICCIARDONE